

REMARKS

Reconsideration of the subject application in view of the present amendment is respectfully requested.

By the present amendment, claims 1-9 have been canceled. Claims 10-14 have been added.

Based on the foregoing amendments and the following remarks, the application is deemed to be condition for allowance, and action to that end is respectfully requested.

I. Rejection of Claims Under 35 U.S.C. §112.

The Examiner rejected claims 1-9 under 35 U.S.C. §112, second paragraph, for allegedly being indefinite. As noted above, claims 1-9 have been canceled. It is respectfully submitted that claims 10-14, which are added by the present amendment, comply with all of the requirements of 35 U.S.C. §112.

II. Rejection Over the Prior Art.

The Examiner rejected claims 1-4 under 35 U.S.C. §102(b) as being anticipated by Larsen, et al, U.S. Patent No. 6,598,270 (Larsen). Claims 5-9 were also rejected under 35 U.S.C. §102(b) as being anticipated by Bailey, U.S. Patent No. 5,566,916 (Bailey). As noted above, claims 1-9 have been canceled and it is respectfully submitted that the new claims 10-14 are patentable over the prior art, including all of the prior art of record in this application.

Specifically, claim 10 recites at least two bracket elements for securing the at least one mounting element to the profile section, with each bracket element being formed as an angular element having two members, extending to each other at an angle, one of which is connectable to the profile section and the other of which is connected to one of the two members of the mounting element. It is respectfully submitted that Bailey discloses a completely different structure.

In Bailey, the mounting element (23) is secured to a single bracket (29) which is secured to a support plate (45) which, in turn, is secured to a support structure.

A rejection based on U.S.C. § 102 as in the present case, requires that the cited reference disclose each and every element covered by the claim.

Electro Medical Systems S.A. v. Cooper Life Sciences, 32 U.S.P.Q. 2d 1017,

1019 (Fed. Cir. 1994); *Lewmar Marine Inc. v. Bariant Inc.*, 3 U.S.P.Q. 2d 1766, 1767-68 (Fed. Cir. 1987); *Verdegaal Bros., Inc. v. Union Oil Co.*, 2 U.S.P.Q. 2d 1051, 1053 (Fed. Cir. 1987). The Federal Circuit has mandated that 35 U.S.C. § 102 requires no less than “complete anticipation . . .

[a]nticipation requires the presence in a single prior art disclosure of all elements of a claimed invention arranged as in the claim.” *Connell v. Sears, Roebuck & Co.*, 220 U.S.P.Q. 193, 198 (Fed. Cir. 1983); See also, Electro Medical Systems, 32 U.S.P.Q. 2d at 1019; *Verdegaal Bros.*, 2 U.S.P.Q. 2d at 1053.

Since Bailey fails to disclose each and every feature of independent claim 10, Bailey, as a matter of law, does not anticipate the present invention, as defined by said independent claim.

In view of the above, it is respectfully submitted that Bailey does not anticipate or make obvious the present invention as defined in Claim 10, and the present invention is patentable over Bailey.

Larsen, which discloses a bracket somewhat similar to that of the present invention, cannot be used with the fastening system of Bailey. Accordingly, Larsen would not make the present invention as defined by claim 10, obvious.

Claims 11-14 depend on claim 10 and are allowable for the same reasons claim 10 is allowable, and further because of specific features recited therein which, when taken alone and/or in combination with features recited in claim 10, are not disclosed or suggested in the prior art.

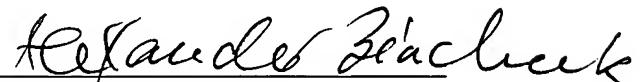


CONCLUSION

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance, and allowance of the application is respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place the case in condition for final allowance, it is respectfully requested that such amendment or correction be carried out by Examiner's Amendment and the case passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, the Examiner is invited to telephone the undersigned.

Respectfully submitted,


Alexander Zinchuk
Reg. No. 30,541

Date: July 29, 2004
Sidley Austin Brown & Wood LLP
787 Seventh Avenue
New York, NY 10019
Tel.: (212) 839-7365

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail and addressed to:
Commissioner for Patents, P.O Box 1450, Alexandria, VA 22313-1450, on July 30, 2004.


Alexander Zinchuk